

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF GAS AND ELECTRIC RATES OF)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	CASE NO. 90-158

O R D E R

On April 26, 1991, the Attorney General's office, Utility and Rate Intervention Division ("AG"), and Jefferson County, Kentucky ("Jefferson"), (collectively referred to as "Movants"), jointly filed a motion requesting the Commission to compel the Louisville Gas and Electric Company ("LG&E") to produce certain information that was either previously requested during the initial hearing phase (i.e. prior to the Commission's December 21, 1990 Order adjudicating the merits of LG&E's rate application) or was requested at the April 24-25, 1991 rehearing. The Movants' motion, orally presented at the rehearing, was filed in writing at the request of the Commission.

Specifically, the Movants request LG&E to produce: 1) a complete listing, supported by vouchers, of all items identified in Fowler Rehearing Testimony, Schedule B, as having been removed for rate-making purposes; 2) an accounts payable ledger, journal, or register for the test year; 3) copies of employment contracts for each officer of LG&E; and 4) proof, to the extent it exists, of Mr. Fowler's communication to Mr. Hale regarding certain expenses being nonreimbursable. Further, the Movants request the

Commission to expand the scope of this rehearing, beyond the issues set forth in the Commission's January 29, 1991 Order, to allow discovery of expense accounts in addition to Account No. 921.

The Movants premise their motion on the claim that LG&E is attempting to hide information from the Intervenors and the Commission, and that previous attempts to obtain the requested information were thwarted by LG&E and the Commission. The Movants claim that the absence of supporting vouchers prevents them from verifying LG&E's testimony that the seven items totalling \$8,100 listed in Fowler Rehearing Schedule B have been excluded for rate-making purposes. In support of the request for the accounts payable ledger, journal, or register, the Movants state that these records were requested prior to the initial hearing in November 1990 but the records were not delivered. Movants state that these records are needed to verify expenses at issue including, but not limited to, those recorded in Account 921. Copies of employment contracts for each officer of LG&E are requested as being necessary for a proper determination of the charges incurred thereunder. Finally, the Movants request an enlargement of the scope of issues on rehearing to include accounts other than Account 921 on the grounds that the testimony presented during the April 24-25 rehearing revealed that expenses which the Movants desire to examine are recorded in such other accounts.

On April 30, 1991, LG&E filed a response in opposition to the Movants' motion. LG&E notes that this case is now pending on rehearing which, pursuant to the Commission's January 29, 1991

Order, is limited to four specific, technical issues: adjusting capitalization to reflect the adjustment accumulated depreciation; downsizing costs; storm damage expenses; and office supplies and expenses - Account No. 921. LG&E states that the Movants limited their request for rehearing to include no account except Account 921, and that the scope of rehearing should not now be enlarged. LG&E further states that in response to the AG's request at the November 1990 hearing, copies of the complete transaction detail for Account 921 for the test year were provided, and that these copies include the vouchers verifying the expenses that are reflected on Fowler Rehearing Schedule B as being excluded for rate-making purposes. LG&E cites the location in its prepared direct testimony and exhibits, filed on July 13, 1990, where the adjustment is made to remove for rate-making purposes the \$8,100 in expenses shown on Fowler Rehearing Exhibit B, as well as other excluded test year expenses which total \$256,553.

LG&E characterizes the Movants' request for an accounts payable register to be a further attempt to obtain a trial balance for the test year. Citing the Commission's October 18, 1990 Order, LG&E states that the AG's September 28, 1990 motion to compel production of an accounts payable register was denied on the basis that no such document had been requested during discovery and that LG&E had fully and completely responded to all of the AG's data requests. LG&E further points out that the October 18, 1990 Order granted the AG the right to inspect LG&E expense account Nos. 909, 921, 931, and 930.209, but despite LG&E's efforts to make these accounts available, the AG failed to

inspect them. LG&E also points out that during the November 1990 hearing the AG made no request for an accounts payable register but did request and was provided with copies of all test year transactions in Account 921 and records relating to officer expense reimbursement. Contrary to the AG's argument that the existence of an accounts payable register was just discovered during the April 24-25 rehearing, LG&E references its October 2, 1990 response to a prior motion of the AG, wherein LG&E disclosed that the details of monthly transactions were available on microfiche cards, and copies of these cards were subsequently provided for Account 921.

In response to Movants' request for officer employment contracts, LG&E states that it has assumed that the \$695 moving expense for relocating a boat was excluded from rates by the Commission's December 21, 1990 Order. LG&E notes that officer relocation expenses were the subject of discovery prior to the November 1990 hearing, but that no one requested copies of the contracts or sought rehearing on this issue. Finally, with regard to the communication that certain expenses are nonreimbursable, LG&E states that testimony was presented at the April 24-25 rehearing that this communication was oral, not written. However, LG&E does point out that a written Voucher No. 900327828, which was discussed during the April 24-25 rehearing, proves that country club dues were excluded as nonreimbursable.

On May 2, 1991, Jefferson filed a statement in support of what it describes as the "Motion of the Attorney General." This description is directly contrary to the representation made in the

motion itself that Jefferson is a Movant therein. Jefferson's statement alleges that: 1) it was "saddened" when the Commission overruled prior AG motions to compel production of data contained on microfiche cards; 2) the lateness of the production of the vouchers supporting Account No. 921 led to the rehearing on this issue; 3) the April 24-25 rehearing established that LG&E recorded relocation expenses in numerous accounts, resulting in a misleading procedure; and 4) the Commission should not adopt the practice of the New Mexico Commission whereby each account is not examined but, rather, current total account levels are compared to historic levels to discern variations. On May 3, 1991 the AG filed a reply to LG&E's response.

Based on the motion and responses, and being sufficiently advised, the Commission hereby finds that each and every document now requested by the Movants was either previously provided, made available to them, or known to exist long before the April 24-25 rehearing and could have been timely requested during the discovery stages of these proceedings. The Movants' first request, seeking vouchers to support the items identified in Fowler Rehearing Schedule B, as having been removed for rate-making purposes, presents an issue which was first disclosed on July 13, 1990 by LG&E's prepared direct testimony. During the course of discovery prior to the November 1990 hearing, as well as at that hearing, information was requested and cross-examination conducted on these excluded items. Six of the seven items identified as having been excluded on Fowler Rehearing Schedule B were recorded in Account 921, and LG&E provided all

supporting vouchers for these items on December 3, 1990. While it does not appear that a voucher was required to be provided for the seventh item, a \$1,100 expenditure for tickets for the Bell Awards Dinner, this expenditure was part of the \$256,553 of expenses identified on July 13, 1990 as having been excluded. The Movants have neither presented a valid reason why this voucher could not have been requested in a timely fashion under the established procedure schedule, nor shown that the voucher was unavailable at LG&E's document production.

The Movants' second request, for an accounts payable register, was previously granted by the Commission's October 19, 1990 Order to the extent that LG&E was required to produce for inspection the microfiche cards containing a listing of monthly transactions. The Commission stated in that Order that a trial balance as requested by the AG and the Commission does not exist, but since the AG believes that the microfiche cards contain relevant information, LG&E must make the cards available for inspection and copying at LG&E's offices. That Order also stated that: 1) LG&E had previously made two separate offers to produce documents for inspection on August 27, 1990 and September 10, 1990, but the AG refused to participate in either; and 2) at the September 24-25, 1990 document inspection mandated by the Commission's September 21, 1990 Order, the AG spent less than three hours on the morning of September 25 inspecting only a small fraction of the available documents. Although LG&E's response characterizes the October 18, 1990 Order as granting only a right to inspect four expense accounts, that Order actually granted all

parties an unqualified right to inspect all test year microfiche cards. Despite this additional opportunity for discovery, the AG failed to respond to LG&E's offer to establish a mutually convenient date for the inspection. These facts clearly show that the AG must take sole responsibility for frustrating his own efforts at discovery.

The Movants' third request is for copies of employment contracts for each officer of LG&E. While there was extensive discovery prior to the November 1990 hearing by both the Movants and the Commission on the salary and benefits payable to the officers, no request was made for copies of the contracts. Similarly, expense reimbursements to officers for relocation expenses were explored during discovery. As the Commission noted from the bench during the April 24-25 rehearing, the issue before this agency is whether expenses incurred in connection with these officers are reasonable and appropriate for inclusion in rates. This was the reason why the Commission's December 21, 1990 Order, at pages 38-39, excluded \$151,507 in expenses, collectively referred to as Miscellaneous Expense Adjustment, including the AG's recommended exclusion of the \$695 expenditure for relocating a boat. (Appendix A attached hereto and incorporated herein by reference.) These expenses were excluded irrespective of whether they were reimbursable by LG&E pursuant to a contract. Whether such expenses are incurred pursuant to an employment contract or similar agreement is immaterial; it is the reasonableness of the level of expenses that must be determined.

The Movants further claim that LG&E's recording of relocation expenses in Account Nos. 506, 510, 514, 923, 926, 930, and 931 is unusual and possibly done to hide expenses from regulatory review. In its reply, the AG goes even further by claiming that LG&E has engaged in "account manipulations" in recording relocation expenses "spread over so many and varied accounts." (AG Reply, p. 1)

Contrary to these allegations, the Commission finds that the Movants have failed to present even a scintilla of evidence to demonstrate that allocating relocation expenses to multiple accounts is unusual, much less manipulative. The Movants were on notice as of July 23, 1990 that these relocation expenses were not all recorded in Account No. 921. See LG&E Responses to Commission Order Dated June 29, 1990, Item 25(b), pages 20-21 of 27. Despite two rounds of discovery prior to the November 1990 hearing, four opportunities to inspect LG&E documents, and seven days of hearings during November 1990, the Movants failed to raise the allocation of relocation expenses as an issue. The issue was first raised at the April 24-25 rehearing -- almost 10 months after LG&E disclosed that these expenses were recorded in accounts other than Account No. 921.

The Commission has mandated, pursuant to KRS 278.220, that LG&E and all other major electric utilities keep their accounting records in conformity with the Uniform System of Accounts For Public Utilities ("USOA"). Had the Movants taken a few minutes to review the descriptions of the accounts where relocation expenses were recorded, they would have seen that no "account manipulations" were taking place. LG&E recorded test year relocation

expenses for new officers and other supervisory personnel in the following accounts as specified and described by the USOA:

<u>Account No.</u>	<u>Title</u>	<u>Items Included</u>
506	Miscellaneous Steam Power Expenses	12. Transportation expenses 13. Meals, traveling and incidental expenses
510	Maintenance supervision and engineering	The cost of labor and expenses incurred in the general supervision and direction of maintenance of steam generation facilities. Including the pay and expenses of superintendents, engineers, clerks, other employees and consultants engaged in the supervision and directing the operation and maintenance of each utility function.
514	Maintenance of Miscellaneous Steam Plant	The cost of labor, materials used and expenses incurred in maintenance of miscellaneous steam generation plant. Also includes labor, materials, overheads and other expenses incurred in maintenance work.
921	Office Supplies and Expenses	11. Meals, traveling and incidental expenses.
923	Outside Services Employed	1. Fees, pay and expenses of accountants and auditors, actuaries, appraisers, attorneys, engineering consultants, management consultants, negotiators, public relations counsel, tax consultants, etc.
926	Employee Pension and Benefits	1. Payment of pensions under a nonaccrual or nonfunded basis.

2. Accruals for or payments to pension funds or to insurance companies for pension purposes.

3. Group and life insurance premiums.

930.1 General Advertising
Expense

The cost of labor, materials used, and expenses incurred in advertising and related activities, the cost of which by their content and purpose are not provided for elsewhere.

930.2 Miscellaneous General
Expense

The cost of labor and expenses incurred in connection with the general management of the utility not provided for elsewhere.

931 Rents

Rents properly includable in utility operating expenses for the property of others used, occupied or operated in connection with the customer accounts, customer service and informational, sales, and general and administrative functions of the utility.

Many of these accounts are general, catch-all accounts for recording expenses not specifically provided for elsewhere in the USoA.

The Movants' fourth request is for documentation, if any exist, of a communication by Mr. Fowler to Mr. Hale regarding certain expenses being nonreimbursable. LG&E has responded to this portion of the Movants' motion by reiterating the substance of Mr. Fowler's testimony at the April 24-25, 1991 hearing. That testimony was that the conversation was oral, no written

documentation of the conversation exists, but a written voucher requesting reimbursement for country club dues was rejected by a written notice that the expenditure was nonreimbursable. This written notice, which was attached to the voucher, was provided to the AG on December 3, 1990. Again, it appears that the AG may not have reviewed the documents he requested and received.

Finally, the Commission has considered the Movants' request to expand the rehearing issues beyond those set forth in the Commission's January 29, 1991 Order, to allow discovery of expense accounts in addition to Account No. 921. The facts of this case plainly show that the Movants had numerous opportunities between June 29, 1990, when this case was filed, and April 24, 1991, the commencement of the rehearing, to pursue discovery of these expense accounts. The bottom line is that they apparently failed to inspect the expense account records that were made available and/or overlooked some records that were provided at their request. Nonetheless, the Commission believes that no stone should be left unturned in the search for relevant evidence. For this reason only, the Commission will consider any additional relevant evidence that might be discovered by a further document inspection. Consequently, the Commission will require LG&E to make available for inspection and copying, within the next 30 days, the test year microfiche cards containing the monthly transactional details, specific supporting vouchers individually requested, and officer employment contracts. LG&E should produce the documents at its offices, for two consecutive days on dates mutually agreeable to LG&E and the Movants, between the hours of 8

a.m. and 6 p.m. Should the Movants determine at the conclusion of the two day inspection that additional time is needed, the Commission will entertain such a motion on an expedited basis.

IT IS THEREFORE ORDERED that:

1. The Movants' motion to compel be and it hereby is granted to the extent that LG&E shall make available for inspection and copying at its offices, between the hours of 8 a.m. and 6 p.m. for two consecutive days within the next 30 days at the mutual convenience of LG&E and the Movants, all test year microfiche cards containing monthly transaction detail, specific supporting vouchers individually requested, and officer employment contracts.

2. LG&E shall give a minimum of 24 hours notice to the Commission and all intervenors of the date and place for the document production to allow their participation.

3. Any information discovered by an intervenor during the document production and deemed to be relevant and material shall be set forth in a supplemental rehearing brief which shall be filed by June 17, 1991.

4. Any request for an evidentiary hearing on the documents produced at the inspection shall be made by written motion filed within seven days of the conclusion of the two day inspection.

5. LG&E shall be authorized to file a responsive supplemental rehearing brief by July 1, 1991.

Done at Frankfort, Kentucky, this 10th day of May, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 90-158 DATED May 10, 1991.

Items included in "Miscellaneous Expense Adjustment" of \$151,507,
at pages 38 and 39 of December 21, 1990 Order

Contributions, Item 25b, page 13 of 27, June 29, 1990 Order, Account 930.204	\$12,050
Louisville Orchestra, Item 25b page 20 of 27, Account 930.209	1,200
Louisville Development Fund, Item 25b, page 21 of 27 Account 930.209	20,000
Greater Louisville Economic Development, Item 25b, page 21 of 27, Account 930.209	60,000
B'nai B'rith Foundation of the United States Item 25b, page 22 of 27, Account 930.209	2,500
Moving expenses, Item 25b, pages 20 thru 22 of 27, Account 930.209	53,268
Additional new office expense, Middleton & Reutlinger, identified at hearing, October 1989 billing, Account 923.001	<u>2,489</u>
	<u>\$151,507</u>